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5 **(408) 279-3518**
6 **STATE ID # 56275**
7 **Attorney for Debtor**

8 **UNITED STATES BANKRUPTCY COURT**
9 **NORTHERN DISTRICT OF CALIFORNIA**
10 **SAN JOSE DIVISION**

11 In re	)	Case No.: 16-50436 meh
12	)	Chapter 11
13 GLADYS SALDANA,	)	OBJECTION TO PROOF OF
14 Debtor.	)	CLAIM
15	)	Claimant: Pennymac Holdings,
16	)	LLC
17	)	Claim No. 4-1
18	)	Date Filed:
19	)	Claim Amount: \$1,888,381.55
20	)	Judge M. Elaine Hammond

21 DEBTOR, GLADYS SALDANA, hereby objects to the proof of claim number 4-1 filed by
22 Pennymac Holdings, LLC in the amount of \$1,888,381.55 for the following reasons:

- 23 1. The mortgage that stems from a deed of trust dated July 20, 2007 and recorded on July 31,
24 2007 for \$1,300,000.00 to Washington Mutual Bank. JP Morgan Chase Bank acquired the
25 loan from Washington Mutual Bank and subsequently assigned the loan obligation to
26 Pennymac Holdings, LLC. The loan is an adjustable rate note with monthly interest rate
27 charges based on a margin of 3.80% added to the 12-MTA Index and capped at 10.60%. For
28 each month that the monthly payment is less than the interest portion, the note provides that
the difference will be added to the unpaid principal and interest will accrue on the amount of
this difference at the current interest rate. The unpaid principal can never exceed a maximum
amount equal to 115% of the principal amount originally owed.

According to the creditor's proof of claim, the balance due through February 2, 2016 was
\$1,888,381.55, consisting of principal of \$1,394,908.95, interest accrued of \$308,703.56 (from
May 1, 2009 through February 2, 2016), fees and costs of \$11,451.30, and escrow balance for

1 funds advanced of \$174,114.92, less funds on hand not applied of \$797.18 According to a
2 payoff quote dated February 22, 2016, the balance due was \$1,892,062.70.

3 2. The attachment to the proof of claim begins at March 10, 2008 (approximately 9 months after
4 the loan was made by Washington Mutual) in the principal balance of \$1,362,540.74. The
5 Debtor disputes this amount inasmuch as the original loan balance was \$1,300,000.00 and
6 Debtor was never provided any information as to how the principal balance increased in a
7 period of 9 months by \$62,540.74 in light of the fact that the Debtor's non filing spouse,
8 Hector Saldana, made each and every required mortgage payment between July of 2007
9 through and including March of 2008. Thus, a discrepancy in the proof of claim of not less
10 than \$62,540.74 exists.

11 3. Since the interest calculation by the creditor appears to be based upon the figure of
12 \$1,362,540.74 instead of \$1,300,000.00 from March of 2008 through and including February
13 of 2016, the interest calculation of \$308,703.56 from May 2009 through and including
14 February of 2016 is in error by not less than \$300,000.00 since the interest charges were
15 compounded over said period of time from May of 2009 through February of 2016.

16 4. Debtor asserts that the proof of claim should therefore be reduced by an amount not less than
17 \$362,540.74.

18 5. Debtor is requesting that the Court schedule and conduct a hearing with regard to her objection
19 to the proof of claim of secured creditor, Pennymac Holdings, LLC.

20 DATED October 12, 2016.

21 /s/ Charles B. Greene
22 **CHARLES B. GREENE**
23 Attorney for Debtor
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Fill in this information to identify the case:

Debtor 1 Gladys Saldana

Debtor 2 _____
(Spouse, if filing)

United States Bankruptcy Court for the: _____ District of California
(State)

Case number 16-50436-MEH

Official Form 410

Proof of Claim

04/16

Read the instructions before filling out this form. This form is for making a claim for payment in a bankruptcy case. Do not use this form to make a request for payment of an administrative expense. Make such a request according to 11 U.S.C. § 503.

Filers must leave out or redact information that is entitled to privacy on this form or on any attached documents. Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. Do not send original documents; they may be destroyed after scanning. If the documents are not available, explain in an attachment.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Fill in all the information about the claim as of the date the case was filed. That date is on the notice of bankruptcy (Form 309) that you received.

Part 1: Identify the Claim

1. Who is the current creditor?	<u>PennyMac Holdings, LLC</u> Name of the current creditor (the person or entity to be paid for this claim) Other names the creditor used with the debtor: _____	
2. Has this claim been acquired from someone else?	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes. From whom? <u>JPMorgan Chase Bank, National Association</u>	
3. Where should notices and payments to the creditor be sent?	Where should notices to the creditor be sent? <u>Aldridge Pite, LLP</u> Name 4375 Jutland Drive, Suite 200 P.O. Box 17933 San Diego, CA 92177-0933 Number Street City State Zip Code Contact phone <u>(858) 750-7600</u> Contact email _____ Uniform claim identifier for electronic payments in chapter 13 (if you use one): _____	Where should payment to the creditor be sent? (if different) <u>PennyMac Loan Services, Inc</u> Name 6101 Condor Drive Moorpark, CA 93021 Number Street City State Zip Code Contact phone <u>(866) 695-4122</u> Contact email _____
4. Does this claim amend one already filed?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Claim number on court claims registry (if known) _____ Filed on _____ MM / DD / YYYY	
5. Do you know if anyone else has filed a proof of claim for this claim?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Who made the earlier filing? _____	

Part 2: Give Information About the Claim as of the Date the Case Was Filed

6. Do you have any number you use to identify the debtor?	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes. Last 4 digits of the debtor's account or any number you use to identify the debtor: _____	
7. How much is the claim?	\$ <u>1,888,381.55</u>	Does this amount include interest or other charges? <input type="checkbox"/> No <input checked="" type="checkbox"/> Yes. Attach statement itemizing interest, fees, expenses, or other charges required by Bankruptcy Rule 3001(c)(2)(A). _____
8. What is the basis of the claim?	<p>Examples: Goods sold, money loaned, lease, services performed, personal injury or wrongful death, or credit card. Attach redacted copies of any documents supporting the claim required by Bankruptcy Rule 3001(c). Limit disclosing information that is entitled to privacy, such as health care information.</p> <p><u>Money Loaned</u></p>	
9. Is all or part of the claim secured?	<div><input type="checkbox"/> No <input checked="" type="checkbox"/> Yes. The claim is secured by a lien on property. Nature of property: <div><input checked="" type="checkbox"/> Real estate If the claim is secured by the debtor's principal residence, file a <i>Mortgage Proof of Claim Attachment</i> (Official Form 410-A) with this <i>Proof of Claim</i>. <input type="checkbox"/> Motor vehicle <input type="checkbox"/> Other, Describe <u>2590 Bentley Ridge Dr., San Jose, CA 95138</u></div></div> <div>Basis for perfection: <u>Mortgage/Deed of Trust</u> Attach redacted copies of documents, if any, that show evidence of perfection of a security interest (for Example, a mortgage, lien, certificate of title, financing statement, or other document that shows the lien has been filed or recorded.)</div> <div>Value of property: \$ <u>2,450,000.00*</u> Amount of the claim that is secured \$ <u>1,888,381.55</u> Amount of the claim that is unsecured: \$ <u>0.00</u> (The sum of the secured and unsecured amounts should match the amount in line 7.)</div> <div>Amount necessary to cure any default as of the date of the petition: \$ <u>745,339.28</u></div> <div>Annual Interest Rate (when case was filed) <u>4.186</u> % <input type="checkbox"/> Fixed <input checked="" type="checkbox"/> Variable</div>	
10. Is this claim based on a lease?	<div><input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Amount necessary to cure any default as of the date of the petition. \$ _____</div>	
11. Is this claim subject to a right of setoff?	<div><input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Identify the property _____</div>	
12. Is all or part of the claim entitled to priority under 11	<div><input checked="" type="checkbox"/> No Yes. Check all that apply: _____</div> <div style="text-align: right;">Amount entitled to priority _____</div>	

U.S.C. § 507(a)?

A claim may be partly priority and partly nonpriority. For example, in some categories, the law limits the amount entitled to priority.

- ☐ Domestic support obligations (including alimony and child support) under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B). \$ _____
- ☐ Up to \$2,850* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use. 11 U.S.C. § 507(a)(7). \$ _____
- ☐ Wages, salaries, or commissions (up to \$12,850*) earned within 180 days before the bankruptcy petition is filed or the debtor's business ends, whichever is earlier. 11 U.S.C. § 507(a)(4). \$ _____
- ☐ Taxes or penalties owed to governmental units. 11 U.S.C. § 507(a)(8). \$ _____
- ☐ Contributions to an employee benefit plan. 11 U.S.C. § 507(a)(5). \$ _____
- ☐ Other. Specify subsection of 11 U.S.C. § 507(a)(____) that applies. \$ _____

* Amounts are subject to adjustment on 4/01/19 and every 3 years after that for cases begun on or after the date of adjustment.

Part 3: Sign Below

The person completing this proof of claim must sign and date it. FRBP 9011(b).

If you file this claim electronically, FRBP 5005(a)(2) authorized courts to establish local rules specifying what a signature is.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Check the appropriate box:

- ☐ I am the creditor.
- ☒ I am the creditor's attorney or authorized agent.
- ☐ I am the trustee, or the debtor, or their authorized agent. Bankruptcy Rule 3004.
- ☐ I am a guarantor, surety, endorser, or other codebtor. Bankruptcy Rule 3005.

I understand that an authorized signature on this *Proof of Claim* serves as an acknowledgment that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

I have examined the information in this Proof of Claim and have a reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on date - 06/21/2016
MM / DD / YYYY

/S/ Christopher M. McDermott

Signature

Print the name of the person who is completing and signing this claim:

Name Christopher M. McDermott
First Name Middle Name Last Name

Title Attorney

Company Aldridge Pite, LLP
Identify the corporate servicer as the company if the authorized agent is a servicer.

Address 4375 Jutland Drive, Suite 200
P.O. Box 17933
Number Street

San Diego, CA 92177-0933
City State ZIP Code

Contact phone (858) 750-7600 Email cmcdermott@aldridgepite.com